



## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36599]

Great Walton Railroad Company d/b/a Hartwell Railroad Company —Acquisition  
Exemption—

Hartwell Railroad Company

By petition filed on March 17, 2022, Great Walton Railroad Company d/b/a Hartwell Railroad Company (GWRC) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323 to acquire ownership and control of Hartwell Railroad Company (HRC). As discussed below, the Board will grant the exemption.

### BACKGROUND

HRC, a Class III carrier, owns a rail line that extends between milepost 0.5 at Toccoa, Ga., and milepost 48.8 at Elberton, Ga. (the Toccoa-Elberton Line). (Pet. 2; id. at Attach. A.) GWRC, a Class III carrier, owns and operates a rail line that extends between Hartwell, Ga. and Bowersville, Ga. (the Hartwell Line) and connects to the Toccoa-Elberton Line at milepost 24.5 in Bowersville. (Pet., Attach. C.)<sup>1</sup> In 1995, HRC granted GWRC trackage rights to operate over the Toccoa-Elberton Line. (Pet. 3; id. at Attach. C.)

In support of the petition, GWRC asserts that the proposed transaction will not result in any changes in service levels, operational changes, or changes in the competitive balance with other rail carriers.<sup>2</sup> (Pet. 5.) GWRC states that the proposed transaction

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<sup>1</sup> GWRC provides a map with the petition at Attachment D.

<sup>2</sup> GWRC notes that the proposed transaction does not qualify for the class exemption under 49 CFR 1180.2(d)(2) because the Hartwell Line and Toccoa-Elberton Line connect in Bowersville. (Pet. 4.)

would perpetuate operations by GWRC that have been in place since 1995 and that, therefore, no shippers will be impacted. (Id.) GWRC states that the purposes of the proposed transaction are to preserve the existing operations and future viability of the Hartwell Line and Toccoa-Elberton Line, and to facilitate their orderly disposition in the future. (Id. at 6.) On April 1, 2022, GWRC filed a certification that the proposed transaction does not involve any provision or agreement that may limit future interchange with a third-party connecting carrier.

### DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 11323(a)(3), the acquisition of control of a rail carrier by any number of rail carriers requires prior Board approval. Under 49 U.S.C. 10502(a), however, the Board must exempt a transaction or service from regulation if it finds that: (1) regulation is not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101; and (2) either the transaction or service is limited in scope, or regulation is not needed to protect shippers from the abuse of market power.

In this case, an exemption from the prior approval requirements of 49 U.S.C. 11323-25 is consistent with the standards of 10502. Detailed scrutiny of the proposed transaction through an application for review and approval under 11323-25 is not necessary here to carry out the RTP. An exemption would promote the RTP by minimizing the need for federal regulatory control over the transaction, 10101(2); ensuring the development and continuation of a sound rail transportation system that would continue to meet the needs of the public, 10101(4); fostering sound economic conditions in transportation, 10101(5); encouraging efficient management, 10101(9); and providing for the expeditious resolution of this proceeding, 10101(15). Other aspects of the RTP would not be adversely affected.

Regulation of the transaction is not needed to protect shippers from an abuse of market power.<sup>3</sup> The record indicates that no shipper would lose an existing rail service option as a result of the proposed transaction. GWRC states that, since it would continue to operate the Toccoa-Elberton Line as it has since 1995, the proposed transaction would not result in any service level or operational changes. Accordingly, the transaction would not result in any shippers losing access to rail service or foreclose any transportation options currently available to shippers. Moreover, no shipper (or any other entity) has objected to the proposed transaction.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all carriers involved are Class III carriers.

The proposed transaction is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(1)(i) because it would not result in any significant change in carrier operations. The transaction is also exempt from the historic reporting requirements under 49 CFR 1105.8(b)(3), because it would not substantially change the level of maintenance of railroad properties.

GWRC states that the proposed transaction would be consummated on or shortly after the effective date of the exemption. The exemption will be effective June 22, 2022, and petitions to stay will be due by June 2, 2022. Petitions for reconsideration or petitions to reopen will be due by June 13, 2022.

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<sup>3</sup> Given this finding, the Board need not determine whether the transaction is limited in scope. See 10502(a).

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323-25 the transaction described above.
2. Notice of the exemption will be published in the Federal Register.
3. The exemption will become effective on June 22, 2022. Petitions to stay must be filed by June 2, 2022. Petitions for reconsideration or petitions to reopen must be filed by June 13, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Aretha Laws-Byrum,

Clearance Clerk.

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